UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

FILED
JUL 19 2016
CLERK, U.S. DISTRICT COURT
RICHMOND, VA

JAMES QUINN, Derivatively on Behalf of Nominal Defendant APPLE REIT TEN, INC.,

Plaintiff,

v.

GLADE M. KNIGHT, JUSTIN KNIGHT, KENT W. COLTON, R. GARNETT HALL, JR., DAVID J. ADAMS, ANTHONY F. KEATING III, DAVID BUCKLEY, KRISTIAN GATHRIGHT, DAVID MCKENNEY, BRYAN PEERY, and APPLE HOSPITALITY REIT, INC.

Defendants,

and

APPLE REIT TEN, INC.

Nominal Defendant.

Case No. 3:16cv610

VERIFIED SHAREHOLDER DERIVATIVE COMPLAINT

Plaintiff James Quinn ("Plaintiff"), by the undersigned attorneys, submits this Verified Shareholder Derivative Complaint (the "Complaint") against the defendants named herein, and alleges upon personal knowledge with respect to himself, and upon information and belief based upon, *inter alia*, a review of public filings, press releases and reports, and an investigation undertaken by Plaintiff's counsel, as to all other allegations herein, as follows:

NATURE OF THE ACTION

1. This shareholder derivative action challenges yet another improper transaction orchestrated by Glade M. Knight to take advantage of the shareholders of a Knight-founded REIT - Apple REIT Ten, Inc. ("Apple Ten" or the "Company") - in order to line his own pockets

and those of other Company insiders, including his son, Justin Knight. Specifically, Glade Knight, who is the founder of both Apple Ten and Apple Hospitality REIT, Inc. ("Apple Hospitality"), and who serves as the Chairman of the Board and Chief Executive Officer ("CEO") of Apple Ten, as well as the Executive Chairman of the Board of Apple Hospitality, has proposed an improper transaction by which Apple Hospitality will acquire Apple Ten for a combination of cash and Apple Hospitality stock for a price per Apple Ten share of $1 in cash and .522 shares of Apple Hospitality stock – for a cash equivalent of between $10.85-$11.17 per share[1] (the "Acquisition"). The total value of the Acquisition as proposed is $1.28 billion.

2. This per share amount is wholly inadequate because, even though the financial information that has been provided is incomplete and deficient as explained below, the limited information that has been disclosed demonstrates that Apple Ten was growing at the high end of its corporate peers, and that, as a result, the minimum possible fair price for Apple Ten's common shares would be at least $12.50 to $13 per share, and likely much more.

3. While the Apple Ten shareholders will receive a price for their Apple Ten stock well below its fair value, Glade Knight and other members of Apple Hospitality/Apple Ten management will receive nearly $65 million just for certain Series B Convertible Preferred Stock ("Series B") that are illiquid and cannot be monetized without a transaction such as the one being proposed. Glade Knight will walk away with over $48 million and selected members of Apple Ten/Apple Hospitality management will receive an aggregate of more than $16 million in highly unusual "special" payments that will be funded by Glade Knight personally from the sale of his Apple Ten Series B shares.

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[1] Apple Ten shares were valued by Apple Hospitality fairness opinion issuer Baird at $11.15 by utilizing the price of Apple Hospitality shares for the 21 days through and including April 12, 2016, and at $10.87 per share by Apple Ten advisor Citigroup Global Markets Inc. ("Citi") by utilizing the price for Apple Hospitality shares only on April 12, 2016.

4. The Acquisition was the product of a conflict-riddled process designed to favor the interests of Glade Knight and certain of Apple Ten's directors and executives at the expense of Apple Ten and its shareholders. As alleged herein, Apple Ten's Board of Directors (the "Board") and the Apple Ten directors who sat on the special committee of the Board (the "Special Committee") were charged with "negotiating" the Acquisition of Apple Ten by Apple Hospitality and their counterparty was Glade Knight's son – Justin Knight, the President and CEO of Apple Hospitality (and the President of Apple Ten). In ostensibly negotiating with the son of the founder and CEO/Chairman of Apple Ten – which they purported to represent – these directors and Special Committee members breached their fiduciary duties of loyalty and good faith by agreeing to a transaction that favors the interests of Apple Ten insiders to the detriment of Apple Ten and its other shareholders by failing to adequately compensate them for the true value of their shares.

5. In addition to the father/son combination on opposite sides of the Acquisition, the conflicts are extensive as Apple Ten and Apple Hospitality have substantial managerial overlap, comprised of Glade Knight's long-time associates who are loyal to him and dependent upon him for their employment and were recipients of his "special" payments in similar transactions in the past. These executives were involved in the process pursuant to which the Apple Ten Board and Special Committee approved the Acquisition – which only adds to the deep conflicts experienced by the Apple Ten Board and Special Committee members. Special Committee Chair, defendant Kent W. Colton ("Colton"), is a long-time professional and personal associate of Glade Knight who has been a member of numerous boards of directors of Glade Knight founded entities.

6. In short, Apple Ten/Apple Hospitality management gets multi-million dollar payments and enables Glade Knight to cash out his otherwise illiquid Series B shares for a

significant premium in comparison to his original investment. Here, Glade Knight paid a mere $.10 per share for his original purchase of the entire 480,000 Series B shares (or $48,000); however, he and his cronies will receive ***well over one thousand times*** their value for a total of nearly $65 million – $48.5 million to Glade Knight and $16.7 million to Apple Ten/Apple Hospitality management, including defendants Justin Knight, David McKenney ("McKenney"), Kristian Gathright ("Gathright"), Bryan Peery ("Peery") and David Buckley ("Buckley").

7. In stark contrast, Apple Ten shareholders will receive an amount which not only undervalues the shares of Apple Ten, but which clearly does not include any "control premium" as the Acquisition price of $10.85 (according to Apple Ten's own advisor) is less than the $11 acquisition price of the shares, which was paid by some shareholders only two years ago. It is clear that Apple Ten share value is being sacrificed for the benefit of Glade Knight and his close-knit group of insiders who will benefit immensely from the Acquisition.

8. This is not the first time that Glade Knight and his management team have taken advantage of Apple shareholders. For example, in 2014, shareholders of another Apple-related REIT filed a shareholder action challenging a conflicted transaction involving the combination of Apple REITs Seven, Eight and Nine to form Apple Hospitality. That transaction, as is the case with the proposed transaction herein, resulted in massive multi-million dollar payouts to Glade Knight and his allies and failed to account for the interests of the Apple REITs' public shareholders – just like the Acquisition here. In that action, the Honorable John A. Gibney, Jr. opined that in Virginia, "[c]orporate officers and directors have a fiduciary duty in their dealings with shareholders and must exercise good faith in such dealings." *DCG & T ex rel. Battaglia/Ira v. Glade Knight,* 68 F. Supp. 3d 579, 587 (E.D. Va. 2014) (citing *Glass v. Glass*, 228 Va. 39, 47, 321 S.E.2d 69, 74 (Va. 1984)). The Court then found that the "multiple accusations leveled by

[the plaintiff] allege in a variety of ways that the Directors knowingly engaged in a flawed and conflicted decision making process leading up to the merger to the detriment of A9 shareholders." *Id.* Thus, Judge Gibney, under facts very similar to those alleged herein, held that the plaintiff had adequately pled a claim for breach of fiduciary duty against Glade Knight and many of the same defendants here.

9. In addition to the foregoing, the Board has also issued materially false, incomplete and misleading information to Apple Ten shareholders through its definitive proxy ("Proxy")[2] filed with the U.S. Securities and Exchange Commission ("SEC") on July 15, 2016, by failing to disclose essential financial information required for Apple Ten shareholders to properly evaluate the proposed transaction and also failed to disclose highly relevant conflicts on the part of Apple Ten Board members and advisers, rendering Apple Ten shareholders unable to make a fully informed vote on the Acquisition. The Proxy set a special meeting date of August 31, 2016 for both Apple Ten's and Apple Hospitality's shareholders to vote on the Acquisition.

10. The deficient and misleading Proxy is not surprising given that Glade Knight and his team have a poor history of making truthful and accurate public disclosures. In 2014, the SEC found that Apple Six (during a period when it was controlled by Glade Knight), Apple Seven, Apple Eight, and Apple Nine (all which, except Apple Six, are now part of Apple Hospitality) violated SEC rules from 2008-2011. Specifically, the SEC found that the Apple REITs had made material misrepresentations and omissions that misled investors about their share-pricing methods, concealed related inter-fund transactions, and failed to disclose "significant compensation" paid to executives. Further, the REITs failed to disclose certain

[2] All references to "Proxy" refer to the Joint Proxy Statement/Prospectus on Schedule 14A filed with the Securities and Exchange Commission by Apple Ten, and Apple Hospitality pursuant to Rule 424(b)(3), on July 15, 2016.

profit-sharing arrangements between its advisors and executives, as well as failed to disclose the economic benefits associated with the Series B shares that had been assigned to certain executives. As part of the settlement with the SEC, defendants Glade Knight, Peery and the Apple REITs implicated in the SEC action paid a collective $1.675 million in penalties.

11. This derivative action asserts claims on behalf of Apple Ten and its shareholders and seeks equitable relief and damages to compensate Apple Ten and its shareholders who suffered harm by virtue of the defendants' breaches of fiduciary duty.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §1332(a)(2) in that Plaintiff and Defendants are citizens of different states and the matter in controversy exceeds $75,000, exclusive of interest and costs.

13. Venue is proper under 28 U.S.C. § 1391 in this District because a substantial part of the acts and omissions giving rise to the claims in this action occurred in this District and certain of the Defendants reside in and/or have their principal place of business within this District.

PARTIES

14. Plaintiff James Quinn ("Plaintiff") currently is a shareholder of Apple Ten, was a shareholder of Apple Ten at the time of the wrongdoing alleged herein, and has been a shareholder of Apple Ten continuously since that time. As required under the Virginia Code Section 13.1-672.1(B), Plaintiff made a demand upon the Board to address the derivative claims alleged herein, the Board has failed to respond and, thus, has ignored the demand. Plaintiff is a citizen of New York.

15. Nominal defendant Apple Ten is a Virginia corporation that was formed in August 2010 and began operations in March of 2011. Apple Ten is a public, non-listed real

estate investment trust ("REIT") and conducted a "best-efforts" rolling public offering, which began in August 2010 and concluded on July 31, 2014. Apple Ten primarily invests in hotels and other income-producing real-estate and, as of March 31, 2016, owned 55 hotels located in 17 states with an aggregate of 7,056 rooms. All of Apple Ten's hotels operate under Marriott or Hilton brands. Apple Ten does not have any employees of its own; rather, its properties are externally managed. Apple Ten's day-to-day management services are provided by Apple Ten Advisors, Inc. ("Apple Ten Advisors"), which is wholly owned by Glade Knight. Apple Ten Advisors has subcontracted its obligations under the advisory agreement with Apple Ten to Apple Hospitality. Thus, Apple Hospitality provides Apple Ten with advisory services, pursuant to which it receives fees and expense reimbursements. Apple Ten is a citizen of Virginia.

16. Defendant Glade Knight is the founder, Chairman of the Board of Directors, and CEO of Apple Ten. He is likewise the founder and Executive Chairman of the Board of Apple Hospitality. Glade Knight was also the founder, Chairman, and CEO of Apple Seven, Apple Eight, and Apple Nine until their combination in 2014, which resulted in the creation of Apple Hospitality. Glade Knight also wholly owns Apple Ten Advisors. As a result of Glade Knight's position, he has interests in the Acquisition that differ from Apple Ten and its public shareholders. Glade Knight will receive direct personal benefits not shared with Apple Ten or other Apple Ten shareholders resulting from his ownership of all 480,000 shares of Apple Ten's Series B stock. As a result of his Series B holdings, Glade Knight will receive a windfall of approximately $64.7 million of cash and Apple Hospitality stock, a portion of which he has assigned to members of his management team. Glade Knight is also Chief Executive Officer and partner of Energy 11 GP, LLC, which is the general partner of Energy 11, L.P. (collectively,

"Energy 11"), a partnership formed to acquire and develop oil and gas properties located onshore throughout the United States. Glade Knight is a citizen of Virginia.

17. Defendant Colton is a director of Apple Ten who has served on the Board since January 2011. Colton has a long history of serving on boards of companies founded by Glade Knight dating back to 2001. For example, Colton served as a director of Cornerstone Realty Income Trust, Apple Hospitality Five, Inc., Apple Eight, Apple Seven, and, from March 2014 until December 2014, he was a director of Apple Hospitality. Colton was on the board of directors of Apple Seven and Apple Eight, and was a member of the Apple Seven special committee which approved the combination of Apple REITs Seven, Eight and Nine in which Glade Knight similarly converted his Series B shares for a multi-million payment to himself and his management team. Colton was also a member of the Special Committee that negotiated the Acquisition on behalf of Apple Ten. Additionally, Colton serves on Apple Ten's Executive and Compensation Committees and is chair of the Audit Committee. In addition to his business relationships with Glade Knight, Colton also has a strong personal relationship with Glade Knight as he served as a member of Southern Virginia University's board of trustees from 2011 through 2014, where Glade Knight is the founding Chairman. Colton is a citizen of Virginia.

18. Defendant R. Garnett Hall, Jr. ("Hall") is a director of the Company who has served on the Board since January 2011. Hall serves on the Board's Audit and Compensation Committees and was also a member of the Special Committee that negotiated the Acquisition on behalf of Apple Ten. Hall is a citizen of Virginia.

19. Defendant David J. Adams ("Adams") is a director of the Company and has served on the Board since July 2011. Adams is a member of the Board's Executive Committee

and was a member of the Special Committee that negotiated the Acquisition on behalf of Apple Ten. Adams is a citizen of Virginia.

20. Defendant Anthony F. Keating III ("Keating") is a director of the Company and has served on the Board since January 2011. Keating is a member of the Board's Audit Committee and serves as Chair of the Compensation Committee. Keating is also a partner and Co-Chief Operating Officer for Energy 11. Keating is a citizen of Oklahoma.

21. Defendant Apple Hospitality is a Virginia corporation formed in November 2007, and operates as a self-advised REIT. Apple Hospitality is publicly traded and its shares are listed on the New York Stock Exchange under the ticker symbol "APLE." Apple Hospitality's business is substantially similar to Apple Ten's, as both entities invest primarily or completely in hotel properties. As of March 31, 2016, Apple Hospitality owned 179 hotels with an aggregate of 22,961 rooms located in 32 states, consisting of Marriott and Hilton brand hotels. Apple Hospitality was founded by Glade Knight, who currently serves as the Executive Chairman of the Board. Glade Knight's son, defendant Justin Knight, is also the CEO, President and a director of Apple Hospitality. Apple Hospitality is a citizen of Virginia.

22. Defendant Buckley is Executive Vice President and Chief Legal Counsel for both Apple Ten and Apple Hospitality, and has served as such since each company's respective inception. Buckley also served as Executive Vice President and Chief Legal Counsel for Apple Seven and Apple Eight until the mergers of those companies which created Apple Hospitality in 2014. Buckley served as Senior Vice President and General Counsel for Apple Two and Apple Five until their respective sales in 2007. Buckley also served as Executive Vice President and General Counsel for Apple Six until Apple Six merged with an affiliate of Blackstone Real Estate Partners VII in May 2013. Buckley stands to receive a "special" payment from Glade

Knight of approximately $2.08 million in cash and stock in connection with the Acquisition. According to publicly available filings, through his executive positions at Apple Hospitality, Apple Two, Apple Five, Apple Six, Apple Seven and Apple Eight, Buckley has earned $4,419,860 in compensation (not including any "special" payments). In addition, Buckley was granted 151,905 Apple Nine shares as part of the 2014 combination of Apple Seven, Eight, and Nine that created Apple Hospitality.[3] Buckley is a citizen of Virginia.

23. Defendant Gathright is Executive Vice President and Chief Operating Officer for both Apple Ten and Apple Hospitality, and has served in such roles since each company's respective inception. Gathright also served as Executive Vice President and Chief Operating Officer for Apple Seven and Apple Eight until the mergers of those companies which created Apple Hospitality in 2014. Gathright also held various roles in other Apple REITs including serving as Chief Operating Officer and Senior Vice President of Operations for Apple Two and Apple Five until their respective sales in 2007 and serving as Executive Vice President and Chief Operating Officer of Apple Six until it merged into an affiliate of Blackstone Real Estate Partners VII in May 2013. Gathright also served as Assistant Vice President and Investor Relations Manager for Cornerstone Realty Income Trust, a Glade Knight founded REIT. Gathright stands to receive a "special" payment from Glade Knight of approximately $4.06 million in cash and stock in connection with the Acquisition. According to publicly available filings, through her executive positions at Apple Two, Apple Five, Apple Six, Apple Seven, Apple Eight, Apple Ten, and Apple Hospitality, Gathright has earned $11,100,756 in

[3] Buckley's Apple Two, Five, and Ten compensation is not publicly disclosed. His compensation for Apple Six, Seven, and Eight is disclosed for the years 2009-2010 only. His Apple Hospitality compensation is disclosed only for the years 2009, 2010, 2014, and 2015.

compensation (not including any "special" payments).[4] In addition, Gathright was granted 1,400,065 Apple Nine shares as part of the 2014 combination of Apple Seven, Eight, and Nine that created Apple Hospitality. Gathright is a citizen of Virginia.

24. Defendant Justin Knight is the son of Glade Knight. He has served as the President of Apple Ten since its inception. Justin Knight has also served as an officer of Apple Hospitality since its inception, currently serving as Apple Hospitality's President and CEO. Justin Knight is also a director at Apple Hospitality and has served as a director since January 2015. In addition, since 2000, Justin Knight has served as President of several other Apple REITs, including Apple Seven and Eight until the mergers of those companies which created Apple Hospitality in 2014; Apple Two and Five until their respective sales in 2007 and Apple Six until it merged with an affiliate of Blackstone Real Estate Partners VII in May 2013. Justin Knight stands to receive a "special" payment from Glade Knight of approximately $4.06 million in cash and stock in connection with the Acquisition. According to publicly available filings, through his executive positions at Apple Two, Apple Five, Apple Six, Apple Seven, Apple Eight, Apple Ten, and Apple Hospitality, Justin Knight has earned $15,131,261 in compensation (not including any "special" payments). In addition, Justin Knight was granted 1,853,272 Apple Nine

[4] Gathright's Apple Two compensation was specifically disclosed for 2006 only; for the years 2001-2005, disclosures noted only that she made less than $100,000 per year. For Apple Five, only her 2006 compensation was disclosed, with notations that for the years 2003-2006 only that no executive received more than $100,000 per year. For Apple Six, her compensation was disclosed for the years 2006-2012, and for prior years noted only that no executive received more than $100,000 per year. Her Apple Seven compensation was disclosed for the years 2006-2012; Apple Eight compensation was disclosed for the years 2007-2012; Apple Ten compensation is for the years 2011-2015; and Apple Hospitality compensation is for the years 2008-2015.

shares as part of the 2014 combination of Apple Seven, Eight, and Nine that created Apple Hospitality.[5] Justin Knight is a citizen of Virginia.

25. Defendant McKenney is the President of Capital Markets for Apple Ten and has served in that position since the Company's inception. He also served as President of Capital Markets for Apple Hospitality from its inception until June 2014, when he became Senior Advisor. McKenney is also a partner and Chief Financial Officer of Energy 11 alongside defendants Glade Knight and Keating. In addition, McKenney served as President of Capital Markets for Apple Seven and Apple Eight from their inception until the mergers of those companies which created Apple Hospitality in 2014. McKenney has a history of serving as an officer of the Apple REITs, including serving as President of Capital Markets for Apple Two and Apple Five until their respective sales in 2007 and for Apple Six until it merged with an affiliate of Blackstone Real Estate Partners VII in May 2013. Also, from 1994 to 2001, McKenney served as Senior Vice President and Treasurer of Cornerstone Realty Income Trust, Inc. McKenney stands to receive as "special" payment from Glade Knight of approximately $4.06 million in cash and stock in connection with the Acquisition. According to publicly available filings, through his executive positions at Apple Two, Apple Five, Apple Six, Apple Seven, Apple Eight, Apple Ten and Apple Hospitality, McKenney has earned $8,108,314 in compensation (not including any "special" payments). In addition, McKenney was granted

[5] Justin Knight's Apple Two compensation was specifically disclosed for 2006 only; for the years 2001-2005, disclosures noted only that he made less than $100,000 per year. For Apple Five, only his 2006 compensation was disclosed, with notations that for the years 2003-2006 only that no executive received more than $100,000 per year. For Apple Six, his compensation was disclosed for the years 2006-2012, and for prior years noted only that no executive received more than $100,000 per year. His Apple Seven compensation was disclosed for the years 2006-2012; Apple Eight compensation was disclosed for the years 2007-2012; Apple Ten compensation is for the years 2011-2015; and Apple Hospitality compensation is for the years 2008-2015.

1,400,065 Apple Nine shares as part of the 2014 combination of Apple Seven, Eight, and Nine that created Apple Hospitality.[6] McKenney is a citizen of Virginia.

26. Defendant Peery is Executive Vice President and Chief Financial Officer ("CFO") for Apple Ten and Apple Hospitality, and has served as such since each company's respective inception. Peery also served as Executive Vice President and CFO for Apple Seven and Apple Eight until the mergers of those companies which created Apple Hospitality in 2014. Peery also served as Senior Vice President, CFO, and Treasurer for Apple Two and Apple Five until their respective sales in 2007. He also served as Executive Vice President and CFO for Apple Six until it merged with an affiliate of Blackstone Real Estate Partners VII in May 2013. Peery stands to receive a "special" payment from Glade Knight of approximately $2.08 million in cash and stock in connection with the Acquisition. According to publicly available filings, through his executive positions at Apple Two, Apple Five, Apple Six, Apple Seven, Apple Eight, Apple Ten and Apple Hospitality, Peery has earned $7,863,828 in compensation (not including any "special" payments).[7] In addition, Peery was granted 174,577 Apple Nine shares as part of the

[6] McKenney's Apple Two compensation was specifically disclosed for 2006 only; for the years 2001-2005, disclosures noted only that he made less than $100,000 per year. For Apple Five, only his 2006 compensation was disclosed, with notations that for the years 2003-2006 only that no executive received more than $100,000 per year. For Apple Six, his compensation was disclosed for the years 2006-2012, and for prior years noted only that no executive received more than $100,000 per year. McKenney's Apple Seven compensation was disclosed for the years 2006-2012; Apple Eight compensation was disclosed for the years 2007-2012; Apple Ten compensation is for the years 2011-2015; and Apple Hospitality compensation is for the years 2008-2014.

[7] Peery's Apple Two compensation was specifically disclosed for 2006 only; for the years 2001-2005, disclosures noted only that he made less than $100,000 per year. For Apple Five, only his 2006 compensation was disclosed, with notations that for the years 2003-2006 only that no executive received more than $100,000 per year. For Apple Six, his compensation was disclosed for the years 2006-2012, and for prior years noted only that no executive received more than $100,000 per year. His Apple Seven compensation was disclosed for the years 2006-2012; Apple Eight compensation was disclosed for the years 2007-2012; Apple Ten compensation is for the years 2011-2015; and Apple Hospitality compensation is for the years 2008-2015.

2014 combination of Apple Seven, Eight, and Nine that created Apple Hospitality. Peery is a citizen of Virginia.

27. Defendants Glade Knight, Colton, Hall, Adams, and Keating are collectively referred to herein as the "Directors" or the "Director Defendants." Defendants Buckley, Gathright, Justin Knight, McKenney and Peery are collectively referred to herein as the "Executives" or "Executive Defendants." The Director Defendants, Executive Defendants and Apple Hospitality are collectively referred to herein as "Defendants."

SUBSTANTIVE ALLEGATIONS

History of the Apple REITS

28. Glade Knight has founded a number of REITs, most of them carrying the name "Apple" in some way. Each of the Apple REITs has operated in a substantially similar manner. The Apple REIT engages in a rolling offering period before being closed to new investors. Upon the creation of the Apple REIT, Glade Knight (and his management at times) purchase the Series B stock at a price of $0.10 per share. Each Apple REIT is a reporting company under the SEC, but – with the sole exception of Apple Hospitality – is not publicly traded on any stock exchange. This is the case for Apple Ten and, therefore, Apple Ten shares are illiquid.

29. The combination of Apple Seven, Apple Eight, and Apple Nine in 2014 created Apple Hospitality. That transaction was strikingly similar to the current proposed Acquisition as it was also rife with conflicts of interest and negotiated by individuals beholden to and controlled by Glade Knight. There, Glade Knight also pre-arranged for the Series B shares in each REIT to receive a significant payout in connection with the merger. He also assigned a significant portion of the benefit of his Series B shares to certain Apple REIT executives in order to incentivize them to support the transaction – defendants Justin Knight, McKenney, Gathright, Peery and Buckley. Each of these individuals is also an officer of Apple Ten and Apple

Hospitality,[8] and each stands to receive a multi-million dollar windfall if the Acquisition is approved.

30. Glade Knight also obtains significant fees through the management and transactional fees paid by Apple Ten to various entities he controls. Over the years, Glade Knight has received over $100 million through the management and transactional fees paid by the Apple REITs to the entities he controls. For example, Glade Knight wholly owns Apple Suites Realty Group ("ASRG"), which acts as a broker for Apple Ten's property acquisitions, and reaps brokerage fees equaling 2% of the gross purchase price for each hotel purchased. Since Apple Ten's inception through the end of 2015, Glade Knight has received $19.9 million from ASRG.

31. Apple Ten Advisors, also wholly owned by Glade Knight, receives fees for its day-to-day management services for the Company and due diligence on acquisitions. Apple Ten Advisors utilizes Apple Hospitality employees for these services pursuant to a subcontract. To date, over $6 million in fees were paid by Apple Ten to Apple Hospitality in accordance with the subcontract for these services.[9]

Apple Ten

32. Apple Ten was founded in August 2010 and began operations in March 2011. Since that time, the Company has performed increasingly well, demonstrating an upward trend in revenue and portfolio quality. The Company's revenue has increased year after year as has its

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[8] With the sole exception that McKenney is no longer an executive officer of Apple Hospitality.

[9] Apple Ten Advisors has been Apple Ten's advisor since its inception in 2011, and has been owned by various different Glade Knight entities since 2011. When Apple Ten was created, Apple Ten Advisors was owned by Apple Six, and from 2011-2013, Apple Ten Advisors used Apple Six employees. From 2013-2014, Apple Ten Advisors utilized Apple Fund Management ("AFM") employees for the advisory services. AFM was an affiliate of Apple Nine Advisors. Upon the Merger of Apple Seven, Eight, and Nine, Apple Ten Advisors began subcontracting its services to Apple Hospitality effective March 1, 2014.

income. Further, significant industry measures of performance of REITs, such as average daily Rate ("ADR"), occupancy rates, and revenue per available room ("RevPAR") have all increased as the Company has grown in recent years. As of the end of 2015, Apple Ten reported that it had an ADR of $127.71, an occupancy rate of 75.8%, and a RevPAR of $96.77, all the highest levels the Company has ever seen. The chart below demonstrates Apple Ten's strong growth year over year:

Year	Revenue	RevPAR
2011	$42,091,000	$75.96
2012	$117,666,000	$79.21
2013	$158,916,000	$81.86
2014	$219,554,000	$88.97
2015	$262,095,000	$96.77

33. This strong growth trajectory would have continued into the future if the Company had chosen to remain a stand-alone entity. When the Acquisition was approved, Apple Ten had internally projected increases in revenue, RevPAR, and EBITDA for the years 2016 – 2020. By 2020, Apple Ten was projecting revenue to reach $323.1 million compared to $262.1 for 2015, RevPAR to reach $113 compared to $96.77 for 2015, and adjusted hotel EBITDA to reach $131.5 million compared to $116.5 for 2016's estimate. Clearly, Apple Ten's management (and Apple Hospitality's management) believed that the Company had positive growth potential which would have offered significant value for Apple Ten shareholders.

The Board Blesses and Approves the Acquisition Which Will Benefit Glade Knight and the Executive Defendants at the Expense of Apple Ten and Its Shareholders

34. On April 14, 2016, Apple Ten publically announced its entry into an Agreement and Plan of Merger (referred to herein as the "Merger Agreement") to be acquired by Apple Hospitality in which Apple Ten shareholders will receive $1.00 in cash and 0.522 Apple Hospitality shares for each Apple Ten share.

35. The Acquisition also allows Glade Knight to finally cash out his Apple Ten Series B shares – all 480,000 of which are held by him – for: (i) 6.32362806 Apple Hospitality common shares and (ii) $12.11423 in cash. Thus, in exchange for his original $48,000 investment (or $.10 per share), Glade Knight will receive over $65 million. Without the transaction (or a sale to a third party), Glade Knight would be unable to liquidate his Series B shares.

36. Glade Knight will share his cash-out with Apple Ten and Apple Hospitality's management by providing approximately 1/3 of the total value of the compensation he will receive for his Series B shares to them. Specifically, defendants Justin Knight, McKenney and Gathright will each receive a "special" payment of $4.06 million and defendants Peery and Buckley will each receive a "special" payment of $2.08 million.

37. As a result of these payouts, the Executive Defendants, who comprised the management of Apple Ten and Apple Hospitality, have a strong financial incentive to support any transaction – such as the Acquisition – that will trigger the conversion of the Series B shares. This is particularly troubling because, as discussed below, the Proxy admits that the management teams were present for and took part in many of the meetings where the Acquisition was negotiated, including communicating information to the Apple Hospitality Board regarding the status of the negotiations.

38. According to the Proxy, on August 26, 2015, the Apple Hospitality board of directors held a special meeting to discuss "potential acquisition opportunities." The meeting was also attended by Apple Hospitality's management, i.e., the same individuals who constitute Apple Ten's management, and at the conclusion of the meeting, Apple Hospitality decided to "explore" an acquisition of Apple Ten. Of course, this was merely a formality as Apple

Hospitality already intimately knew Apple Ten's business being that it had been serving as the Company's advisor and manager, and there was significant overlap in the two companies' management teams. Indeed, Apple Ten was created with the express intent of it merging with another Knight company or otherwise selling it within seven years. As the Proxy disclosed, Apple Ten indicated at the time of its public offering that it intended to seek a liquidity event for its shareholders within seven years due to the fact that its shares were illiquid and not publicly traded.

39. Two days later, on August 28, 2015, Apple Ten's Board also held a special meeting at which they discussed "strategic alternatives." Not surprisingly, at the conclusion of the meeting, the Board decided to commence discussions with Apple Hospitality rather than actually exploring other potential opportunities with independent third parties in order to obtain a higher and fair price for Apple Ten's shareholders.

40. Thereafter, in early December, Apple Hospitality's board of directors held a special meeting, attended by Apple Hospitality's management, i.e., Apple Ten's management, at which it was determined to acquire Apple Ten for $11 per share in a combination of stock and cash.

41. On December 11, 2015 – almost four months after talks began – Apple Ten formed a Special Committee. The Special Committee was given limited authority to consider and negotiate a potential merger with Apple Hospitality, make a recommendation to the full Board regarding the proposal, and solicit interest from other parties interested in a combination. The Special Committee consisted of defendants Colton, Adams and Hall. Notwithstanding Colton's long history as a Glade Knight confidant, his history as a director of Apple Hospitality as well his directorship on numerous Glade Knight REITs, including, Cornerstone Realty Income

Trust, Apple Five, Apple Eight, Apple Seven, and his clear lack of independence, Colton was selected to serve as the Chair of the Special Committee. Colton was also a member of the Apple Seven special committee which approved the combination of Apple REITs Seven, Eight and Nine in 2014.

42. Thereafter, Apple Ten and Apple Hospitality engaged in superficial "negotiations" from January through March. Indeed, at most of the Apple Hospitality's board meetings where the merger terms were discussed and determined, Apple Hospitality (and Apple Ten's) management were present. Further, on March 23, 2016, Justin Knight met with the Special Committee directly to discuss the proposed combination. During that meeting, Justin Knight was purportedly acting solely "in his capacity as president and [CEO] of Apple Hospitality" to discuss his vision and strategy of the combined company. Therefore, the Special Committee was directly relying on the representations of a conflicted executive, who, along with his father Glade Knight, stand to receive a multi-million dollar windfall in the event the Acquisition is consummated.

43. Then, on April 13, 2016, the boards of each of Apple Hospitality and Apple Ten met and both unanimously approved the Acquisition.

44. In addition to the foregoing woefully deficient process leading up the announcement of the Acquisition, the Special Committee here was advised by a conflicted and non-independent financial advisor with a limited mandate, Citi.

45. Citi's mandate was unduly restricted. It was not permitted to engage in any appraisal or independent valuation of the Apple Ten's assets before agreeing to the exchange ratio, rendering its fairness opinion of little value. Further, Citi relied on financial information provided by the personally conflicted Executive Defendants, who stood to benefit from the

consummation of the Acquisition. Citi also used comparable transactions from 2006 and 2007 in its determination that that the Acquisition here is fair to Apple Ten shareholders – thus relying on transactions that were nearly ten years old.

46. Citi also has a long history of blessing transactions that disproportionately favor Glade Knight and his executives with large payouts. Citi has been Glade Knight's go-to bank of choice and, in fact, was the financial advisor to Apple Nine's special committee, which blessed the conflict-ridden merger that created Apple Hospitality in 2014. In the past, Citi has also provided services for Apple Eight in a similar proposed consolidation with Apple Seven and Apple Nine.

47. In sum, the process employed by the Special Committee here is not exemplary of an arm's-length negotiation. The Special Committee did not seek to maximize Apple Ten's value and this deficient process resulted in a sales price unfair to Apple Ten and its shareholders. Indeed, although the Merger Agreement allowed a short forty-five day "go shop" period, in circumstances such as those here, that provision was meaningless.

48. Instead, the Board should have employed a process similar to that by Apple Six when it decided to pursue a "liquidity event" by requiring its financial advisor to actively solicit bids by third parties and which resulted in an ultimate sale to a third party. There the Apple Six board ordered the financial advisor to solicit interest from third parties. The financial advisor identified approximately 130 prospective buyers. Thirty six of those prospective buyers signed a confidentiality agreement. Eventually, a sale of Apple Six was agreed to in 2013, to a Blackstone Group affiliate.

The Limited Valuation Information Available Demonstrates that the Proposed Transaction Significantly Undervalues Apple Ten

49. The public shareholders of Apple Ten will receive only $10.85 per share according to Apple Ten's advisor, Citi. This amount is less than the $11 per share paid by the public shareholders even though Apple Ten has demonstrated significant growth in certain key financial metrics over the past five years.

50. While the Apple Ten public shareholders receive a mere $10.85 per share, Glade Knight and the Apple Hospitality/Ten officers who are beholden to him will receive an extraordinary $135 per share for each of the Series B shares held by Glade Knight and distributed in part to those beholden executives.

51. Further, even though only limited financial information has been provided, the data indicates that Apple Ten has outperformed all of the peer companies selected by Baird in its comparable companies analysis. Apple Ten's current and next year growth is the highest amongst all peers (including peers selected by Baird). Apple Ten also has the highest EBITDA and operating margins of any of the peers, including Apple Hospitality.

52. Given that Baird, utilizing peer data that was clearly outperformed by Apple Ten, had a comparable companies range that had a top value of $12 per share (based upon NAV as a comparator) at only the 80^{th} percentile, a price of $12.50 to $13 (or more) would be a more appropriate and reasonable amount for a company that outperformed all of those peers.

The Defendants' Breaches of Fiduciary Duties

53. Due to their positions as directors and officers of Apple Ten and because of their ability to control the Company's business and corporate affairs, each of Apple Ten's directors and officers owes the Company and its shareholders the fiduciary obligations of loyalty and good faith. The Defendants were and are required to act in furtherance of the best interests of the

Company and its shareholders so as to benefit all shareholders equally and not in furtherance of their personal interest or benefit. Each director and officer of the Company owes to the Company and its shareholders the fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing. Further, by failing to eliminate the conflicts of interest described herein, the Defendants acted in violation of their fiduciary obligations and Apple Ten's own Code of Business Conduct, which prohibits conflicts of interest "that result[] in an employee or director, or members of his or her family, [to] reveiv[e] improper personal benefits as a result of his or her position in the Company[.]" The Board has violated its fiduciary duties in multiple ways.

54. First, the Board failed to fulfill its fiduciary obligations by failing to form a truly independent special committee to negotiate the proposed Acquisition on behalf of Apple Ten. The Special Committee was chaired by Colton, who lacks independence due to his longtime connections with Glade Knight and directorships on Knight-controlled entities. Further, Colton was not an appropriate choice to serve on the Special Committee due to his prior service on the special committee of Apple Seven in the combination that created Apple Hospitality. Because that transaction was substantially similar in its terms compared with the present Acquisition, it is clear that Colton – who has been involved in Knight-controlled entities since 2001 – is not adverse to approving large payouts to Glade Knight. This conflict of interest should have been eliminated by the Board by not permitting Colton to serve on the Special Committee.

55. The Board also breached its fiduciary obligations by facilitating a conflicted negotiation process which was designed to favor Glade Knight and the Executive Defendants. The Board and Special Committee placed the interests of Glade Knight and the Executive

Defendants ahead of the interests of Apple Ten and its public shareholders in approving the Acquisition. The Acquisition was conceived by Glade Knight and designed purely to be a liquidation event which would trigger the conversion of the Series B shares and provide a significant payout to Glade Knight, his son Justin, and the remaining Executive Defendants to whom he assigned part of his interest.

56. Further, it was in Glade Knight's strong personal interest to retain Apple Ten within the Apple Hospitality family at a discount because of the substantial management fees his companies earn based upon the revenues of Apple Ten and his differential shareholdings in the two companies. A sale of Apple Ten to a third party would deprive Glade Knight and his companies of the lucrative revenue stream from the management of Apple Ten. Further while Glade Knight owns only .1% of Apple Ten's Class A shares, he owns 4.7% of the shares in Apple Hospitality, a stake that is 47 times greater on a percentage basis.

57. Meanwhile, the Acquisition offers little benefit to Apple Ten or its shareholders. The Apple Ten shareholders are receiving no premium for their shares in a well-performing company. In fact, the price of approximately $10.85 per share represents a negative premium to the acquisition value that public shareholders paid to acquire Apple Ten shares – despite Apple Ten's impressive performance in recent years.

58. Apple Hospitality is low-balling Apple Ten's shareholders, and because Apple Ten shares are not publicly traded, shareholders have little recourse, as they are unable to easily sell their illiquid investment. By approving and recommending inadequate merger consideration for each Apple Ten share which undervalues the true value of Apple Ten stock, the Director Defendants breached their fiduciary duties.

59. The Special Committee also breached its duties by failing to explore any third party acquisition options for Apple Ten as was undertaken three years earlier with respect to the sale of Apple Six. Given that Apple Ten has performed well over the last few years – outperforming all of its peers, including Apple Hospitality – there can be little doubt that there would have been significant interest by non-conflicted entities in exploring an acquisition of Apple Ten. Instead, the Special Committee set out with the sole intent of approving a merger transaction with Apple Hospitality because that was Glade Knight's objective. Glade Knight will thus be entitled to his Series B payout while at the same time continuing to benefit from Apple Ten's thriving business through his significantly greater interest in Apple Hospitality.

60. The Special Committee also breached its duties by failing to permit an independent appraisal of the underlying assets owned by Apple Ten so that they could ensure a proper exchange ratio was utilized in the Acquisition. But for this type of analysis, the fairness opinion of Citi is of little use as it does not evaluate the true value of Apple Ten in relation to Apple Hospitality. Finally, the Special Committee breached its duties by retaining a conflicted financial advisor.

The Proxy Statement Is Materially False, Incomplete and Misleading

61. The Proxy fails to provide certain material information to Apple Ten's shareholders relevant to their decision as to whether to vote in favor of the Acquisition, against the Acquisition, or seek appraisal.

62. The Proxy failed to discuss the basis for the agreed-to exchange ratio or the valuation process of Apple Ten and Apple Hospitality that lead to the exchange ratio.

63. The Proxy fails to disclose the extent to which Glade Knight participated in the negotiations on behalf of Apple Hospitality. Notwithstanding the fact that he did not participate

in any vote, the extent to which a conflicted fiduciary influenced the Acquisition negotiations is material to Apple Ten shareholders in deciding whether the transaction is fair to them.

64. Even though Wells Fargo acted as a valuation analyst in connection with the acquisition of Apple Ten and provided to the Apple Hospitality board information on the valuation of Apple Ten and an overview of the macroeconomic environment and the lodging industry, the Proxy wholly fails to disclose any of the information provided to the Apple Hospitality board of directors, which formed the basis for its offer for Apple Ten, or any of the valuation work prepared by Wells Fargo in connection with the Acquisition.

65. Among other financial and valuation metrics, the Apple Ten Board considered the relative estimated contributions to the combined company's funds from operations ("FFO") and EBITDA by Apple Hospitality and Apple Ten, yet the Proxy contains no current or projected FFO or EBITDA information. Further, the financial advisors retained by Apple Hospitality and Apple Ten utilized in their fairness opinions metrics for FFO, adjusted funds from operations ("AFFO"), EBITDA and NAV, yet the Proxy contains no current or projected information with respect to any of these four important metrics.

66. Both Baird and Citi in their respective fairness opinions rely upon some of the following variables: Adjusted EBITDA, Hotel EBITDA, NAV and value per room key in conducting a comparable companies analysis of value; yet the Proxy completely fails to disclose the multiples for any of the comparable companies used in the analysis and fails to provide any information for Apple Ten on value per room key on either a historic or projected basis.

67. The Proxy fails to disclose whether Citi or Baird performed any type of benchmarking analysis to determine the comparability of their selected comparable companies or, if they did, the results of that analysis.

68. Both Baird and Citi in their respective fairness opinions rely upon comparable transactions analysis of value, yet the Proxy completely fails to disclose the multiples for any of the comparable transactions. Further, with respect to the Citi comparable transactions analysis, the Proxy offers no basis for the selection by Citi of eight allegedly comparable transactions that pre-date the 2008 financial crisis and only one post-crisis transaction (from 2012), when Baird had seventeen comparable transactions that were more recent than any transaction relied upon by Citi.

69. The Proxy nowhere reveals the underlying discounted cash flow analysis or the underlying variables used in making the calculations such as cost of Apple Ten equity, cost of Apple Ten debt or other capital asset pricing model variables. The Proxy also fails to provide data on the implied perpetuity growth rates that resulted in the multiples Baird and Citi used to calculate terminal value.

70. The Proxy wholly fails to disclose projected financial information sufficient to replicate or even understand the discounted cash flow valuation analysis, including, for years 2016 – 2020, the following items:

a. EBIT (or D&A);

b. Taxes (or tax rate);

c. Capital expenditures;

d. Changes in net working capital;

e. Stock-based compensation expense;

f. Unlevered free cash flow;

g. Average daily rate ("ADR"); and

h. Number of room keys.

71. Moreover, the integrity, accuracy or utility of the forecasts is not revealed to shareholders except it is disclosed that the forecasts "do not comply with guidelines established by the AICPA or published guidelines of the SEC or GAAP."

72. Among the other omitted and/or misrepresented material facts in the Proxy are:

a. Misleadingly describing the Special Committee as being composed of "independent" directors.

b. Failing to adequately disclose conflicts of interest of the Apple Ten Special Committee members.

c. Failing to disclose all material information regarding the present and former relationships and engagements between Apple Hospitality and the financial advisor who represented Apple Ten.

d. Failing to disclose the reasons that Wells Fargo, who assisted Apple Hospitality in connection with the proposed merger, was not chosen (or was not willing) to provide a fairness opinion on the proposed merger.

Derivative Demand Allegations

73. Plaintiff brings this action derivatively in the right and for the benefit of the Company to redress the Defendants' breaches of fiduciary duties and other violations of law.

74. Plaintiff is an owner of Apple Ten common stock and was an owner of Apple Ten common stock at all times relevant hereto.

75. Plaintiff will adequately and fairly represent the interests of the Company and its shareholders in enforcing and prosecuting its rights.

76. On June 22, 2016, as required by the Virginia Code, Plaintiff, through his counsel, made a detailed demand on the Board to give its members the first opportunity to address the claims and allegations alleged herein. A copy of the demand letter is attached hereto as Exhibit A.

77. The Board ignored the demand and failed to respond or conduct any investigation and took no action on behalf of Apple Ten to address the issues raised in the demand.

78. The Proxy set August 31, 2016 as the date of the special meeting of Apple Ten and Apple Hospitality's respective shareholders to vote on the Acquisition.

COUNT I

Breach of Fiduciary Duties of Loyalty and Good Faith against the Director Defendants

79. Plaintiff repeats and re-alleges each allegation set forth in this Complaint.

80. In Virginia, directors have a fiduciary duty in their dealings with the corporation and its shareholders, and must exercise loyalty and good faith in such dealings. The Director Defendants have violated the fiduciary duties they owe to Apple Ten.

81. In approving the Acquisition, the Director Defendants took no effective steps to protect the interests of the Company or its shareholders. The Acquisition was not an arm's-length transaction, but a conflicted pre-planned transaction intended to solely benefit Glade Knight and the Executive Defendants.

82. By the acts, transactions, and courses of conduct alleged herein, the Director Defendants pursued a single-bidder sales process and appointed a non-independent Special Committee. While negotiating the Acquisition, the Director Defendants willfully favored the interests of Glade Knight and the Executive Defendants ahead of those of the Company and its shareholders in violation of their fiduciary duties of loyalty and good faith.

83. The Director Defendants additionally violated their fiduciary duties of loyalty and good faith by knowingly issuing materially false, incomplete and misleading statements in the Proxy to Apple Ten shareholders in solicitation of their vote.

84. As a result of this misconduct, Apple Ten and its shareholders have suffered significant damages.

COUNT II

Aiding and Abetting a Breach of Fiduciary Duty against Apple Hospitality and the Executive Defendants

85. Plaintiff repeats and re-alleges each allegation set forth in this Complaint.

86. Apple Hospitality and the Executive Defendants acted with knowledge of the fact that the Director Defendants were breaching their fiduciary duties to Apple Ten and its shareholders. The reason for this is obvious. Apple Ten and Apple Hospitality have the same management teams and are both dominated by Glade Knight. The common intent of Apple Ten and Apple Hospitality was a pre-requisite necessary for the Acquisition to occur and for the fiduciary breaches to occur here. Thus, Apple Hospitality's and the Executive Defendants' participation in the fiduciary breaches occurred through their common agents with Apple Ten, as described herein.

87. Apple Hospitality and the Executive Defendants rendered substantial assistance to effectuate the Director Defendants' plan to consummate the Acquisition for the benefit of Glade Knight and the Executive Directors close to him.

88. Negotiations over the Acquisition involved Apple Hospitality's management team, which was the same as Apple Ten's management team, which included many if not all of the Executive Defendants. All of these parties were aware that the prime benefit of the Acquisition would run to Glade Knight and the Executive Defendants, all were aware of the obvious conflicts of interest in owing duties to both companies and their respective shareholders, and all were aware that the interests of Apple Ten and its shareholders were taking a back seat to those of Glade Knight and the Executive Defendants.

89. As a result of their aiding and abetting these breaches, Apple Ten and its shareholders have suffered damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment in its favor as follows:

A. Declaring that this action is properly maintainable as a shareholder derivative action;

B. Enjoining the Special Meeting of Apple Ten shareholders scheduled for August 31, 2016;

C. Directing that all Defendants have breached their fiduciary duties owed to the Company and its shareholders or have aided and abetted such breaches;

D. Directing Defendants to account to the Company and/or its shareholders for damages sustained as a result of the wrongs complained of herein;

E. Declaring that the Acquisition was entered into in breach of the Director Defendants' fiduciary duties and is therefore unlawful and unenforceable, and that the Acquisition should be rescinded and invalidated;

F. Awarding Plaintiff the cost of this action, including reasonable allowance for attorneys' fees and experts' fees; and

G. Granting such other and further equitable relief as this court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury on all claims set forth herein.

Dated: July 19, 2016 Respectfully Submitted,

WILLIAMS & SKILLING, P.C.

Charles Williams
cwilliams@williamsandskilling.com
4801 Radford Avenue, Suite A
Richmond, VA 23230
Telephone: (804) 447-0307
Facsimile: (804) 447-0367

KESSLER TOPAZ
MELTZER & CHECK, LLP
Robin Winchester
Geoffrey C. Jarvis
Grant D. Goodhart
280 King of Prussia Road
Radnor, Pennsylvania 19087
Telephone: (610) 667-7706
Facsimile: (267) 948-2512

Attorneys for Plaintiff